

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

NATIONAL CITY BANK,

Plaintiff,

Case No. 05-C-1257

v.

BARRY P. DEGNER,

Defendant.

OPINION AND ORDER

Barry Degner, the Defendant in this case, has filed a notice of removal from the Circuit Court of Waukesha County (Wisconsin). Having examined the removal documents, the court finds that the Defendant has not complied with 28 U.S.C. § 1446(a) and that, consequently, the court cannot determine whether it has subject matter jurisdiction. Therefore, it must conclude that it does not, so the court **ORDERS** that this action is remanded to the Circuit Court of Waukesha County whereupon the state court may proceed with this action. See 28 U.S.C. § 1447(c).

IT IS FURTHER ORDERED that the Clerk of Court shall mail a certified copy of this Order of Remand to the Clerk of the Circuit Court of Waukesha County.

IT IS FURTHER ORDERED that Degner's "Petition to Proceed Without Prepayment of Fees and/or Costs" (filed December 5, 2005) IS DENIED.

Done and Ordered in Chambers at the United States Courthouse,
Milwaukee, Wisconsin, this 7th day of December, 2005.

s/ Thomas J. Curran
Thomas J. Curran
United States District Judge